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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/675,467	09/28/2000	Arnold N. Blinn	MS1-624US	8910
22801	7590	11/03/2006	EXAMINER	
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			PATEL, JAGDISH	
			ART UNIT	PAPER NUMBER
			3693	

DATE MAILED: 11/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



**Office Action Summary**

Application No.

09/675,467

Applicant(s)

BLINN ET AL.

Examiner

JAGDISH PATEL

Art Unit

3693

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 26, 28-33 and 43-64 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 26, 28-33 and 43-64 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |



### **DETAILED ACTION**

1. This communication is in response to RCE filed 9/18/06 and corresponding amendment filed 6/7/06.

#### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/7/06 has been entered.

#### ***Response to Amendment***

3. Claims 26, 31, 44, 48, 52 and 53 have been amended. Claims 26, 28-33 and 43-64 are currently pending.

#### ***Response to Arguments***

4. Applicant's arguments with respect to claims 26, 28-33 and 43-64 have been considered but are moot in view of the new ground(s) of rejections. The amended claims contain certain defects which render them indefinite under 35 USC 112(second). However, the applicant's arguments regarding effective date of Wheeler reference as being that of the provisional



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application 60/233076 have been fully considered and are deemed persuasive. Accordingly, rejections of claims under 35 USC 103(a) over Wheeler have been withdrawn.

***Claim Rejections - 35 USC § 112***

5. Claims 26, 28-33 and 43-64 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claims 26, 28-33 and 43-64 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps.

See MPEP § 2172.01. The omitted steps are based upon the following reasoning.

The claimed inventions recite a step of determining a set of payment accounts in the electronic wallet. The set of payment account is further recited as identifying external accounts which are not restricted being spent at the merchant server.

Since, the payment accounts and the associated external accounts are maintained at a server identified in the maintaining step, the receiving and the determining steps should be clearly recited as being (received at and ) determined at the server where the payment accounts are received.

The determining step should further recite relationship to the merchant server where the purchase using the electronic wallet originates. In other words, the determining step should clarify that the process of identifying external accounts is based upon certain property of the merchant server such as the identity of the merchant at which the purchase request originates.



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Exemplary claim 26 is discussed. All independent claims should be reviewed and amended to correct the deficiencies identified above.

***Allowable Subject Matter***

7. Claims 26, 28-33 and 43-64 are deemed allowable over the prior art of record subject to amendment to the claims which resolves the aforementioned 112(second) rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAGDISH PATEL whose telephone number is (571) 272-6748. The examiner can normally be reached on **800AM-630PM Mon-Tue and Thu.**

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammel can be reached on (571) 272-6712. The fax phone number for the organization where this application or proceeding is assigned is 517-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jagdish N. Patel

(Primary Examiner, AU 3693)

10/30/06